



County of Los Angeles CHIEF EXECUTIVE OFFICE

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WILLIAM T FUJIOKA
Chief Executive Officer

March 11, 2008

The Honorable Board of Supervisors
County of Los Angeles
383 Kenneth Hahn Hall of Administration
500 West Temple Street
Los Angeles, CA 90012

Dear Supervisors:

**DEPARTMENT OF REGIONAL PLANNING: RECOMMENDATION TO AUTHORIZE
TERMINATION OF CONTRACT NUMBER 74023 WITH P&D CONSULTANTS, INC.
(ALL DISTRICTS AFFECTED) (3 VOTES)**

IT IS RECOMMENDED THAT YOUR BOARD:

1. Approve and instruct the Director of Planning to Provide Notice of Termination for Default of County Contract Number 74023 with P&D Consultants, Inc. (P&D).
2. Find that P&D has materially breached this Contract.
3. Find that P&D defaulted in providing timely fulfillment of performance requirements under this Contract, and failed to demonstrate convincing progress toward a cure.

PURPOSE/JUSTIFICATION OF RECOMMENDED ACTION

On June 11, 2002, your Board approved Contract Number 74023 between the County of Los Angeles and Cotton/Bridges/Associates (CBA), a division of P&D, to prepare an Environmental Impact Report (EIR) for the revision and update of the Los Angeles County General Plan.

The Department of Regional Planning (DRP) initiated this Board approved Contract with CBA on July 8, 2002. The initial term of this Contract was for three years, with three additional one-year renewal options, two of which were exercised without dispute. In 2005, as part of a corporate reorganization, CBA was consolidated and officially

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referred to as P&D. In 2006, there were other reorganizations of which we were not fully apprised. We now know, however, that in 2006 the division within P&D working on the EIR (its Urban Planning Group), joined the consultant company EDAW and continued to work on this Contract. Despite the work done by EDAW employees, EDAW claimed that P&D remained the legally responsible party for this Contract. P&D, however, later refused to be bound by the final one-year renewal option exercised by the DRP to complete the project.

The DRP worked in good faith with EDAW, which had assumed the day-to-day responsibilities for this Contract in 2006, to ensure that all necessary County General Plan products were available for environmental analysis. In 2007 the DRP attempted to negotiate with EDAW to possibly revise this Contract for scope of work and budget to account for new regulatory, legal and policy developments that occurred since the initiation of this Contract, a revision that ultimately would have needed your Board's approval.

The DRP submitted the final one-year renewal option to P&D during these negotiations. EDAW initially notified the DRP that it would take responsibility for this Contract and would accept the renewal option. However, when EDAW would not agree to the DRP's late summer 2007 offer to amend this Contract, EDAW shortly thereafter withdrew its proposal to assume P&D's responsibility for this Contract. EDAW requested more than three times the original Contract amount to complete the work.

Since EDAW contended that responsibility for completion of this Contract remained with P&D, the DRP made one last effort to resolve the matter by contacting P&D in early January 2008 to provide a remedy. P&D responded that they accepted no responsibility for this Contract. With that action, P&D clearly breached this Contract and offered no remedy. The Planning Director therefore found it necessary to immediately recommend termination of this Contract for default, pursuant to Paragraph 8.43 of this Contract.

Implementation of Strategic Plan Goals

This action is consistent with the principles of County Strategic Plan Goal #4: Fiscal Responsibility.

FISCAL IMPACT/FINANCING

The total maximum Contract sum is \$299,306. The fiscal impact of this action will reduce the total Contract amount to \$133,923, which amounts to a reduction of \$165,383.

FACTS AND PROVISIONS/LEGAL REQUIREMENTS

Paragraph 8.43 of this Contract allows the County to terminate this Contract for default, in whole or in part, when, in the judgment of the Planning Director, this Contractor has either 1) materially breached this Contract, or 2) failed to timely provide or satisfactorily perform any task or work under this Contract, or 3) failed to demonstrate a high probability of performance requirements under this Contract. After consultation with County Counsel, the Planning Director determined that all three defaults had occurred. There was a material breach, a failure to timely perform and a failure to demonstrate a high probability of fulfillment of performance requirements. To comply with the specific terms of Paragraph 8.43, County Counsel recommends giving notice of the termination. State and Federal approval is not required.

IMPACT ON CURRENT SERVICES (OR PROJECTS)

The DRP will follow the standard procedures required for County Request for Proposals to secure a new contractor to provide a thorough and professionally prepared EIR for the County General Plan. The Draft Preliminary General Plan was released to the public for comment in the summer of 2007 and is being thoroughly revised by DRP staff to provide a comprehensive vision for smart growth, sustainability, and green development. The Plan is slated for adoption in 2009 and is imperative that an EIR conducted by a qualified contractor be initiated immediately in order to meet this timeframe.

The termination of this Contract for default will not infringe on the role of the County in relationship to its residents, and the County's ability to respond to emergencies will not be impaired. There is no change in risk exposure to the County as a result of this Contract termination.

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CONCLUSION

Upon Board approval, the Executive Officer, Board of Supervisors, is requested to return one adopted stamped Board letter to the Director of Planning.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'WTF', followed by a stylized flourish.

WILLIAM T FUJIOKA
CHIEF EXECUTIVE OFFICER

WTF:LS:BMC:RH:MH:AO:ao

c: Auditor-Controller
Executive Officer, Board of Supervisors
County Counsel

Termination of Contract-P&DConsultants, Inc.